

Contract No. _____
ID No. _____

THE STATE OF TEXAS §
COUNTY OF HARRIS §

**CITY OF HOUSTON
CONVENTION AND ENTERTAINMENT FACILITIES DEPARTMENT
THEATER LICENSE AGREEMENT**

THIS **CONVENTION AND ENTERTAINMENT FACILITIES DEPARTMENT THEATER LICENSE AGREEMENT** ("Agreement") is made by and between the **CITY OF HOUSTON, TEXAS** (the "City"), acting through the Director of its Convention and Entertainment Facilities Department (the "Department") whose address is P.O. Box 61469, Houston, Texas 77208, or such person as may be designated by the Director and _____ ("Licensee"), whose address is _____.

WITNESSETH:

License. The City hereby grants and the Licensee hereby accepts a license to use and to occupy that portion of the _____ (the "Facility"), **"AS IS,"** which portion is described as follows:

Such portion is hereafter referred to as the "Premises." The Licensee represents and warrants that it will use the Premises for the following function or activity:

_____ (the "Event"). The Licensee shall not change the function or activity described above without a written amendment to this Agreement signed by the Director and the Licensee.

License Period. Subject to the terms of this Agreement, the Licensee is entitled to occupy and to use the Premises for the following period (the "License Period"):

If the Licensee occupies the Premises before or after the License Period in connection with the Event, the Licensee shall be liable for an additional fee for such additional time, hereinafter referred to as "Additional Time." Occupancy of the Premises before or after the License Period occurs whenever the Licensee, its agents, employees, contractors, subcontractors, patrons or attendees is physically present in the Premises and such presence interferes with the use of the Premises by another licensee as determined by the Director.

Rent and Payment of Rent. In consideration for the license granted herein, Licensee shall pay to the City the following License Fee:

_____The City acknowledges that the sum of \$_____ Dollars has been paid upon Licensee's execution of this Agreement toward the License Fee. Licensee shall pay the remainder of \$_____ on or before_____. Licensee may not occupy any part of the Premises unless the License Fee set forth above has been paid in full and Licensee has provided the insurance certificate described in this Agreement. Late payments shall be subject to a ten percent (10%) late charge. If Additional Time is required before or after the License Period, there will be an additional charge of up to \$500.00 per hour. All remaining fees above the minimum rental of the Premises (Equipment Rental Charge, Additional Time charges, damages, etc.) shall be deducted from the Deposit described below and the remainder shall be due within **thirty (30) days** of receipt of the post-Event invoice. If payment is not received within the time period stated herein, the Director may, in his or her sole discretion, assess a ten percent (10%) late charge in addition to the invoice amount or the Licensee's dates may be released.

Ticket Surcharge. There is a Ticket surcharge for all Class I and Class II Events. For each Event to which an admission fee of \$5.00 or more is imposed, there shall be a Ticket surcharge assessed as follows:

\$1.00 Upon each admission Ticket sold at a face value of \$10.00 or more.

\$. 50 Upon each admission Ticket sold at a face value of at least \$5.00, but less than \$10.00.

The surcharge shall be imposed only on sold Tickets. All taxes are included in the face value of the Ticket. For purposes of the surcharge a "Ticket" is defined to mean any form of entry control utilized to impose a fee of any sort for admission to an Event.

Equipment Rental Charge. The License Fee is for the Premises only and does not include rental charges for certain City-owned front of house tables, chairs, lecterns, risers, portable dance floor, pianos, podiums, and other equipment. Use of this equipment is at the option and additional expense of the Licensee. Set-up changes by the Licensee after the initial equipment set-up are subject to additional charge.

Contract and Damage Deposit. The Licensee shall post a Contract and Damage Deposit (the "Deposit") in the amount of \$_____, on or before the_____ day of_____, in accordance with Section 4 of the Standard Terms and Conditions. However, if additional information about a Licensee comes to the attention of the Director before the License Period begins, the Director may reassess both the Licensee's risk index (as defined in Chapter 12, Code of Ordinances, Houston, Texas) and the amount of the Deposit set forth above. Based upon the reassessment, the Director may terminate this Agreement or require that the Deposit amount be adjusted and paid by the Licensee. (See also Section 4 of the Standard Terms and Conditions.)

INSURANCE. LICENSEE SHALL, AT ITS SOLE COST AND EXPENSE, PROCURE AND MAINTAIN THROUGH THE DURATION OF THE LICENSE PERIOD PLUS ANY ADDITIONAL TIME, THE FOLLOWING MINIMUM INSURANCE COVERAGES. NEITHER THE ISSUANCE OF ANY INSURANCE POLICY REQUIRED UNDER THIS AGREEMENT NOR THE MINIMUM LIMITS SPECIFIED BELOW SHALL BE DEEMED TO LIMIT OR RESTRICT IN ANY WAY LICENSEE'S LIABILITY ARISING UNDER OR OUT OF THIS AGREEMENT. LICENSEE SHALL BE PERSONALLY LIABLE FOR ANY LOSSES, DAMAGES OR LIABILITIES SUFFERED OR INCURRED BY THE CITY AS THE RESULT OF LICENSEE'S FAILURE TO MAINTAIN OR CAUSE TO BE MAINTAINED THE TYPES OR AMOUNTS OF INSURANCE REQUIRED TO BE MAINTAINED BY LICENSEE UNDER THE TERMS OF THIS AGREEMENT.

- (i) **COMMERCIAL GENERAL LIABILITY INSURANCE AGAINST CLAIMS FOR BODILY INJURY OR DEATH AND PROPERTY DAMAGE OCCURRING IN OR UPON OR RESULTING FROM THE PREMISES, SUCH INSURANCE TO AFFORD IMMEDIATE PROTECTION TO THE LIMITS OF NOT LESS THAN \$600,000 PER OCCURRENCE, AND \$1,000,000 AGGREGATE AND SUCH INSURANCE SHALL INCLUDE (a) ADVERTISING INJURY AND (b) PERSONAL INJURY; AND**
- (ii) **WORKERS' COMPENSATION (STATUTORY AMOUNT); AND**
- (iii) **EMPLOYER'S LIABILITY - \$500,000 BODILY INJURY FOR EACH ACCIDENT; DISEASE LIMITS OF \$500,000 PER POLICY AND \$500,000 PER EMPLOYEE; AND**
- (iv) **BUSINESS AUTOMOBILE - COVERAGE TO INCLUDE OWNED, HIRED, AND NON-OWNED VEHICLES WITH A COMBINED SINGLE LIMIT OF \$1,000,000.**

THE CITY (AND IN THE CASE OF WORTHAM THEATER, WORTHAM CENTER OPERATING COMPANY), SHALL BE NAMED AS AN ADDITIONAL INSURED ON ALL OF LICENSEE'S POLICIES, EXCEPT WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY, WITHOUT ANY RESTRICTIVE MODIFICATIONS. ALL POLICIES SHALL CONTAIN AN ENDORSEMENT WAIVING ANY CLAIM OR RIGHT OF SUBROGATION AGAINST THE CITY. THE ISSUER OF ANY POLICY SHALL HAVE A CERTIFICATE OF AUTHORITY TO TRANSACT INSURANCE BUSINESS IN THE STATE OF TEXAS OR HAVE A BEST'S RATING OF AT LEAST B+ AND A BEST'S FINANCIAL SIZE CATEGORY OF CLASS IV OR BETTER, ACCORDING TO THE MOST RECENT EDITION OF BEST'S KEY RATING GUIDE, PROPERTY-CASUALTY UNITED STATES.

LICENSEE SHALL DELIVER TO THE DIRECTOR A CERTIFICATE IN A FORM REASONABLY SATISFACTORY TO THE DIRECTOR, WHICH CERTIFICATE EVIDENCES EACH OF THE ABOVE-REQUIRED POLICIES AT LEAST SIXTY (60) DAYS PRIOR TO THE COMMENCEMENT OF THE LICENSE PERIOD FOR ALL EVENTS OTHER THAN A RESIDENT COMPANY EVENT. LICENSEE SHALL OBTAIN THE WRITTEN AGREEMENT ON THE PART OF EACH INSURANCE COMPANY TO NOTIFY THE DIRECTOR AT LEAST TEN (10) DAYS PRIOR TO CANCELLATION, MATERIAL ALTERATION OR NON-RENEWAL OF ANY SUCH INSURANCE.

LICENSEE SHALL REQUIRE ALL OF ITS CONTRACTORS AND AGENTS TO CARRY APPROPRIATE LEVELS OF INSURANCE, INCLUDING WORKERS' COMPENSATION, BEFORE ALLOWING SUCH PERSONS TO WORK OR PERFORM IN THE FACILITY. THE CITY (AND IN THE CASE OF WORTHAM THEATER, WORTHAM CENTER OPERATING COMPANY) SHALL BE NAMED AS AN ADDITIONAL INSURED ON ALL INSURANCE EXCEPT WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY. THE AMOUNT MUST BE COMMENSURATE WITH THE AMOUNT OF THE SUBCONTRACT, BUT IN NO CASE LESS THAN \$500,000 PER OCCURRENCE.

Special Provisions. The following special provisions shall be included in this Agreement (such provisions are peculiar to Licensee's Event):

Standard Terms and Conditions. The Standard Terms and Conditions attached hereto are made a part hereof for all purposes.

Department Rules and Regulations. The Department's Rules and Regulations are incorporated herein and made a part hereof for all purposes as though set out herein at length and Licensee has read and agrees to abide by the terms thereof.

Definitions. All terms either defined herein or capitalized herein shall have the same meaning in the Standard Terms and Conditions. All terms capitalized herein, but not defined herein, shall have the meaning assigned to such terms in the Department's Rules and Regulations.

Rejection of Licensee's Offer. The execution and delivery of this Agreement to the City constitutes an OFFER by Licensee which the City may reject at any time prior to the Director's execution of this Agreement. The City may reject such offer by depositing written notice to such effect in the United States mail, postage prepaid, addressed to Licensee.

Entire Agreement. This Agreement, the Standard Terms and Conditions, and the provisions of Chapter 12, Code of Ordinances, Houston, Texas, constitute the entire agreement between the City and Licensee; no prior written or contemporaneous oral promises or representations shall be binding upon the City. If this Agreement conflicts with a lease and grant agreement with a resident company, the lease and grant agreement controls. This Agreement shall not be amended or changed except by written agreement signed by both parties hereto. In the event of a conflict between this Agreement, Chapter 12, the Standard Terms and Conditions and the Department's Rules and Regulations the following order shall control:

1. Chapter 12 over
2. Agreement over
3. Standard Terms and Conditions over
4. Department's Rules and Regulations.

IN WITNESS OF WHICH this Agreement has been executed by the Licensee on this _____ day of _____, 20_____.

All copies of the signed Agreement must be received in the Convention and Entertainment Facilities Department office no later than _____, or the License Period dates are subject to being released at the sole discretion of the Director.

CITY OF HOUSTON, "City"

"Licensee"

By: _____
Name:
Title:

By: _____
Name:
Title:

Date

FORM APPROVED BY CITY LEGAL DEPARTMENT